BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of	)	
	)	
Service Rules for the 698-746, 747-762 and 777-792 MHz Bands	)	WT Docket No. 06-150
	)	
Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems	)	CC Docket No. 94-102
	)	WT Docket No. 01-309
Section 68.4(a) of the Commission's Rules Governing Hearing Aid-Compatible Telephones	)	WT Docket No. 03-264
	)	
Biennial Regulatory Review – Amendment of Parts 1, 22, 24, 27, and 90 to Streamline and Harmonize Various Rules Affecting Wireless Radio Services	)	WT Docket No. 06-169
	)	
Former Nextel Communications, Inc. Upper 700 MHz Guard Band Licenses and Revisions to Part 27 of the Commission's Rules	)	PS Docket No. 06-229
	)	
Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band	)	WT Docket No. 96-86
	)	
Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Communications Requirements Through the Year 2010	)	

COMMENTS OF ALOHA PARTNERS, L.P.

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SUMMARY

Aloha is the nation's largest 700 MHz licensee. It holds licenses that cover more than 60% of the US population. Aloha's interest in 700 MHz stems from its appreciation of the propagation advantages of the 700 MHz band. These include greater signal range, superior penetration, and the associated lower build-out costs. Aloha has conducted trials in Phoenix, AZ and Las Vegas, NV using its 700 MHz spectrum and has confirmed the significant advantages that 700 MHz can provide.

Aloha supports many of the recommendations that the Commission has proposed in the NPRM, but also has some suggestions for improvements.

Band Plans

Aloha supports the Commission's current selection of EAs for the Lower Band A Block, and CMAs for the Lower Band B Block. However, Aloha recommends that the Commission adopt for the Lower Band E Block an EA allocation rather than an REAG allocation. This will permit more competitive bidding for the only remaining high powered broadcast option.

Aloha appreciates the number of conflicting interests in the Upper 700 MHz band plan and recommends that the Commission select Proposal #2 set forth in paragraph 192, chart 7. This plan best balances the public interest and the interests of small and large companies. If the Commission does not select this

option, Aloha urges the Commission to include at least 1 EA allocation in the Upper Band.

Build Out Requirements

The first step in a successful build out plan is to insure that there are sufficient small market allocations. Once that is accomplished, Aloha understands the need for additional requirements that will insure that service is available in a reasonable amount of time…particularly in rural areas. Aloha supports geographic coverage and key milestones. However, Aloha believes that the first milestone of 3 years is too early and should be extended to 5 years, similar to other services. In addition, Aloha recommends that the timetable begin after the DTV Transition is complete, not when licenses are granted.

Combinatorial Bidding

Combinatorial bidding is unnecessary and untested. Auction No.65 was the Commission's first experiment with combinatorial bidding. Aloha's experience in Auction No.65 indicates that there maybe still be potential "bugs" in the software. In addition, Aloha believes that combinatorial bidding will give big companies a significant advantage and may result in less revenues to the U.S. Treasury.

Several commenters have asserted that combinatorial bidding is the only way to give new entrants a fair chance to put together a national footprint. Yet, over the past decade numerous companies have demonstrated that they did not need combinatorial bidding to be successful. In 1995, Sprint faced significant

competition from all incumbents, and yet was able to purchase markets covering almost 67% of the U.S. Six years later, Nextel demonstrated in Auction No.33 that if a company wants markets badly enough it can buy them, regardless of market sizes. In Auction No.33, Nextel purchased Guard Band licenses covering over 90% of the U.S. In 2002, Aloha Partners was able to purchase licenses covering over 50% of the U.S. in the original 700 MHz auctions. Finally, Spectrum Co. showed just last summer that they could acquire licenses covering over 90% of the U.S. in Auction No.66. In each one of these cases the companies not only bought large footprints in the initial auction, but went on to acquire additional licenses in the after-market and developed national footprints. So the assertion, that new entrants must have "combinatorial bidding" has not been true for a significant number of companies in the last 10 years.

Blind Bidding

Blind bidding is also unnecessary and untested. In theory, blind bidding is appealing. Bidders carefully analyze how much they are prepared to bid on each market and then bid to their threshold. People believe that, similar to an art auction or real estate auction, this approach will maximize auction revenues. Unfortunately, the reality is that over 1,000 licenses will be auctioned at the same time in the 700 MHz Auction and the potential winner of an adjacent market may have a direct impact on another bidder's pricing strategy. Aloha believes if the

Commission wants to test blind bidding, it should experiment with a less significant auction where the potential risks would be less costly.

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COMMENTS OF ALOHA PARTNERS, L.P.

I. INTRODUCTION

Aloha is the largest licensee in the Lower 700 MHz Band.[1] Aloha is licensed in 245 CMAs for Lower 700 MHz Band spectrum. Its licensed markets cover over 60% of the U.S. population.

The 700 MHz Band has significant advantages for delivering Wireless Broadband, mobile video and other service to rural markets. 700 MHz can cover an area that is 2-3 times as large as could be covered by PCS spectrum (1800-1900 MHz) or MMDS spectrum (2500 MHz). This permits very significant savings of capital expenditures and system operating costs. Build-out of 700 MHz in rural areas is expected to be less than one-third of the costs of those for PCS spectrum, and even a smaller percentage of 2.5 GHz Broadband Radio Service ("BRS") spectrum build-out costs. These most significant savings make the 700 MHz Band far more economical for rural broadband and mobile video applications than any higher frequency.[2]

Aloha has conducted two trial markets that have confirmed 700 MHz advantages. Aloha conducted a wireless broadband trial in Phoenix, AZ that showed 700 MHz's superior propagation characteristics. Aloha is currently conducting a

[1] That band consists of frequencies 698-746 MHz (the "Lower 700 MHz Band".)

[2] Most certainly, and in response to the Commission's inquiry, there are no corresponding costs that offset these significant cost savings.

Mobile TV trial in Las Vegas that demonstrates 700 MHz's unique applicability for transmitting live television to wireless devices.

II. DISCUSSION

A. The Commission "Has It Right" By Offering A Mix Of License Sizes.

Among the most pivotal questions posed by the Commission in its Further Notice are those involving band plans. The AWS auction is widely recognized one of the most successful auctions that the Commission has ever conducted. A key element to that success was offering the AWS spectrum in a mixture of different market sizes. Aloha supports the Commission's plan to use a similar approach in the 700 MHz auction. Specifically, Aloha supports the Commission's choice of Economic Areas ("EAs") for the Lower Band "A" Block. Aloha also supports the Cellular Market Areas ("CMAs") for the Lower Band "B" Block. The "B" Block configuration is particularly important for the small incumbent 700 MHz licensees who wish to increase their amount of 700 MHz spectrum so that they can provide wireless broadband to rural areas. The original Block "C" 700 MHz licenses were sold as CMAs and are adjacent to the Block "B". A CMA configuration in the

adjacent Block "B" allows these small companies to easily expand the capacity they need for wireless broadband.

Aloha recommends that the Lower Band "E" Block allocation be changed, to EAs from Regional Economic Area Groups ("REAGs"). The Commission has acknowledged that the most likely use for the Lower Band Block "E" will be one-way high powered transmission. Small, entrepreneurial companies (including Aloha) and independent telephone companies are very interested in Mobile Video. These companies will not be able to participate in the Block "E" auction, because the areas are so large and expensive.

The band plan for the Upper Band has been very contentious and has pitted small companies against big ones. Aloha appreciates the alternatives that the Commission has proposed and supports Proposal #2 set forth in paragraph 192, figure 7. This plan best balances the needs of all participants. It offers 3 separate bidding blocks. It offers a mix of big and small market sizes. It offers the opportunity for a Frontline-like approach to be successful and is the best use of the Guard Band.

B. Build Out Requirements Are Important To Insure Coverage In Rural Areas

In the Further Notice, the Commission sought comment on a proposal that provided three stages of required geographic coverage: 25% within three years; 50% within five years; and 75% within eight years. Further Notice, at Para. 212. Aloha

supports the Commission's use of milestones. However, Aloha urges that the Commission set the initial milestone at 5 years (not 3 years) and start the build out clock when the DTV transition is complete, not when licenses are granted. Setting the 1st milestone at 5 years is consistent with past auctions. Starting the build out clock at the end of the DTV transition would align the build out timetable with the license term.

This change is especially appropriate given that the 1st milestone of 3 years would come two years earlier than cellular (five years); two years earlier than PCS (five years); and seven years earlier than AWS (ten years). A three year milestone would also create significant market pressures in favor of vendors and to the detriment of smaller carriers. This would particularly be the case for smaller carriers who almost certainly will be a secondary priority for equipment manufacturers. For all of the above reasons, Aloha submits that the applicable time frame for the 1st milestone should be at five years with the same coverage as proposed above.

With respect to how any newly adopted performance standards would be applied, Aloha supports the general "keep what you use" proposal set forth in Para. 214 of the Further Notice. That process would free-up unbuilt areas without unduly penalizing any licensee that builds facilities, but does not comply fully with the newly articulated performance standards.

C. Combinatorial Bidding Is Unnecessary and Untested

The primary premise in support of combinatorial bidding is that it is the only way for new entrants to put together nationwide licenses. However, history demonstrates that not to be the case. In the first broadband PCS auction, Auction No.4, Wireless Co (Sprint) purchased 29 of 59 Major Trading Areas ("MTAs") markets and covered almost 67% of the U.S.[3] Six years later in Auction No.33, Nextel was even more successful. Nextel purchased Guard Band licenses covering over 90% of the U.S.[4] One year later Aloha Partners purchased 700 MHz licenses covering of 50% of the U.S. in Auction No.44. Only last year in Auction No.66, Spectrum Co. amassed 94% of all EA licenses. In sum, there simply is no validity to the claim that combinatorial bidding is needed in order to permit consolidation of large license areas.

In addition to there being no genuine need for combinatorial bidding, there are meaningful costs associated with it. Combinatorial bidding presents an array of logistical issues that has never been completely addressed. Eligibility is an issue for any bidder that is the next highest bidder in a market that has been won by a combinatorial bid. For example, let's say that the next highest bidder uses the bidding eligibility units not used due to combinatorial bids taking the bidder out of

[3] Add site to Auction PN.

[4] Add site to Auction PN.

the lead in any given market so that it becomes the high bidder in another market. However, at the same time it is the high bidder in another market, one of the other losing individual bidders in the combinatorial markets significantly raises its bid and now makes the individual bids higher than the combinatorial bid. At this point, the original next highest bidder is obligated for both its new market high bid and its old next highest bid, but has eligibility for only one. Alternatively, how does a bidder know if it can afford to bid in a new market if it does not know whether it will become responsible for buying one of its initial high bid markets in which it was beaten by combinatorial bidding?

Lest one infers that the above-type of questions are largely academic, one need look no further back than to Auction No.65. Auction No.65 was the Commission's first experiment with combinatorial bidding and was conducted on a very small scale. There, the Commission staff had to halt the auction for two days due to unexpected complications associated with combinatorial bidding software.[5] It is unclear if all the potential software problems have been identified and might crop up again in the significantly bigger700 MHz auction.

Combinatorial bidding could also impact the amount of revenues that the Commission collects. Some analysts suggest that combinatorial bidding will generate more revenues because a "combinatorial bid" will only be successful if it is

[5] This was accomplished via an email transmitted to all bidders.

higher than individual market bids. Unfortunately, this is not true. Aloha has identified at least 4 instances in the AWS auction in which "combinatorial bidding" would have resulted in significantly lower revenues. The example below involving Auction No. 66 shows that if Verizon had submitted a "combinatorial bid" of $2.4 million in Round 14, it would have been the high bidder for the four regions it wanted and saved itself $400 million by not having to be the high bidder in Round 16 in each individual market. Aloha estimates that "combinatorial bidding" would have generated $2 billion less in revenues in the AWS auction because of situations like this.

High Bid Analysis

	"F" Block		
Region	Verizon Winning Bids Round 16 (000)	Verizon High Bids Round 14 (000)	T-Mobile High Bids Round 15 (000)
Northeast	1,335	927	1,113
Southwest	572	572	477
Great Lakes	616	616	513
Mississippi Valley	275	275	235
Total	2,798	2,390	2,338

There is one additional, "soft" reason that combinatorial bidding is contrary to the public interest. On its face, it is available to all. In actuality, it is an option

that works only to the advantage of large carriers (who can utilize it) and to the detriment of small carriers (who can virtually never use it).

D. Blind Bidding Is Unnecessary and Untested

There is no need for "blind bidding", and there are significant drawbacks to it. First, with respect to whether there is any need for it, the lone quantitative analysis of the potential for collusion submitted in any of the captioned proceedings, and that argues for the remedy of blind bidding, offers no support for its urging. *See* Ex Parte submission of the Media Access Project, dated April 20, 2007, as submitted in WT Docket No. 06-150 and PS Docket No. 06-229, on April 23, 2007 ("MAC Report"). Accepting as true, for the moment, all facts and "conclusions" included in the submission, less than two tenths of one percent (31 of 16,197) of all bids included in Auction No. 66 were deemed to be collusive. MAC Report, at 8. That hardly warrants a change in a fundamental auction technique used to date.

While the advantages of blind bidding may be theoretical and marginal, the costs are very real, and substantial. For small and medium size carriers, and their financing sources, knowledge as to how the larger, more established players are bidding can be crucial to their continued willingness to participate in the auction as prices rise. For small and medium carriers, it is also important to know who their spectrum neighbors will be so that they can insure compatible technology and roaming capability.

Lastly, blind bidding would remove one of the core integrity checks in the auction: the fact that all bidders have access to the same information about competing bids and bidders. This is because, even with blind bidding, some larger bidders will infer who is placing particular bids based on expensive software packages. Smaller companies will not have this type of resource and will be at a competitive disadvantage

III. CONCLUSION

The upcoming 700 MHz Auction could be the Commission's finest hour. But for that to happen the auction must be properly structured. The most critical component of that structuring is the inclusion of multiple licenses of different sizes in different spectrum blocks. In this context, Aloha urges the Commission to adopt the Lower 700 MHz Band plan for Blocks "A" and "B" as proposed in the Further Notice, and "Proposal No.2" for the Upper 700 MHz Band plan. In addition, Aloha urges the Commission to change the Lower Band "E" Block to EAs so that there will be greater participation and competition.

Aloha also urges the Commission not to risk this most important of all auctions by introducing the unnecessary and untested concepts of combinatorial bidding or blind bidding. Aloha urges the Commission to test both of these approaches in less significant auctions. Finally, Aloha supports the Commission's build out requirements, but suggests that the first milestone be 5 years, not 3 years, and that start date begin after the DTV transition is complete.

Respectfully Submitted,

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